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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/887,957	06/22/2001	Siegfried Luft	4906.P028	7673
8791	7590	06/13/2005	EXAMINER	
BLAKELY SOKOLOFF TAYLOR & ZAFMAN 12400 WILSHIRE BOULEVARD SEVENTH FLOOR LOS ANGELES, CA 90025-1030			LY, ANH VU H	
			ART UNIT	PAPER NUMBER
			2667	

DATE MAILED: 06/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Supplemental
Notice of Allowability**

Application No.

09/887,957

Examiner

Anh-Vu H. Ly

Applicant(s)

LUFT ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to telephonic interview June 07, 2005.
2. ☒ The allowed claim(s) is/are 14-18 and 49-53 renumbered as 1-10.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>20050610</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-4, drawn to providing multiple communication services in a ring, classified in class 370, subclass 391,
 - II. Claims 5-13 and 40-48, drawn to provisioning variable rate pipe of an optical ring, classified in class 370, subclass 406,
 - III. Claims 14-19 and 49-54, drawn to detecting and reducing transmission rates in optical ring, classified in class 370, subclass 242,
 - IV. Claims 20-27, drawn to detecting a failure in a ring, classified in class 370, subclass 222, and
 - V. Claims 28-39, drawn to managing TDM traffic, classified in class 370, subclass 352.

Inventions I, II, III, IV and V are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because claim 1 of Group I does not require provisioning the variable transmitted traffic on span of an optical ring (Group II) or reducing transmission rates when a failure detected (Group III) or switching traffic between the working channel and the protection channel (Group IV) or managing TDM traffic (Group V); and that groups II, III, IV, or V as the subcombination

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has utility by itself. The subcombination has separate utility such as providing services, provisioning the optical ring, reducing transmission rates, detecting failure, and managing TDM traffic means.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Daniel M. De Vos on April 13, 2005 a provisional election was made without traverse to prosecute the invention of claims in Group III. Claims 1-13 and 20-48 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

EXAMINER'S AMENDMENT

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Daniel M. De Vos on April 15, 2005.

The application has been amended as follows:

In The Claims

Claims 1-13, 19-48, and 54 are cancelled.

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14. (Currently Amended) A machine-readable medium that provides instructions, which when executed by a set of processors, cause said set of processors to perform operations comprising:

transmitting a first set of traffic at a first rate on a first span of an optical ring;

transmitting a second set of traffic at the first rate on a second span of the optical ring;

reducing transmission of the first set of traffic to a second rate while there is a failure on the second span;

switching the second set of traffic to the first span; and

transmitting the second set of traffic at a third rate while there is a failure on the second span; and

wherein the first set of traffic is transmitted in a non-contiguous set of physical channels and the first set of traffic is fractionally concatenated.

49. (Currently Amended) A computer implemented method comprising:

transmitting a first set of traffic at a first rate on a first span of an optical ring;

transmitting a second set of traffic at the first rate on a second span of the optical ring;

reducing transmission of the first set of traffic to a second rate while there is a failure on the second span;

switching the second set of traffic to the first span; and

transmitting the second set of traffic at a third rate while there is a failure on the second span; and

wherein the first set of traffic is transmitted in a non-contiguous set of physical channels and the first set of traffic is fractionally concatenated.

Allowable Subject Matter

3. Claims 14-18 and 49-53 are allowed.

The following is an examiner's statement of reasons for allowance:

The prior art does not teach or fairly suggest the steps of reducing transmission of the first set of traffic to a second rate while there is a failure on the second span; switching the second set of traffic to the first span; transmitting the second set of traffic at a third rate while there is a failure on the second span; and wherein the first set of traffic is transmitted in a non-contiguous set of physical channels and the first set of traffic is fractionally concatenated, as specified in independent claims 14 and 49.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Coltro (US Pub 2002/0167966 A1) discloses fiber optic synchronous digital hierarchy telecommunication network provided with a protection system shared on the network.

Swinkels et al (US Patent No. 6,795,394 B1) discloses data network having enhanced availability of extra traffic.

Luft et al (US Pub 2004/0202467 A1) discloses protection mechanism for an optical ring.

Takatori et al (US Patent No. 5,600,631) discloses a self-healing ring switch.

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Nguyen et al (US Patent No. 6,594,279) discloses method and apparatus for transporting IP datagrams over synchronous optical networks at guaranteed quality of service.

De Boer et al (US Patent No. 6,616,350) discloses method and apparatus for providing a more efficient use of the total bandwidth capacity in a synchronous optical network.


Watkins et al (US Patent No. 6,654,354) discloses system and method for planning multiple MUX levels in a fiber optical network simulation plan.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anh-Vu H Ly whose telephone number is 571-272-3175. The examiner can normally be reached on Monday-Friday 7:00am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

avl


CHI PHAM
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800 6/10/05